

**STAFF REPORT
C22**

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06/21/18
W 27146
M. Schroeder

GENERAL LEASE – RECREATIONAL USE

APPLICANT:

Second Manassas, LLC, a California Limited Liability Company

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in Lake Tahoe, adjacent to 837 Stateline Avenue, South Lake Tahoe, El Dorado County.

AUTHORIZED USE:

Use and maintenance of an existing pier and one mooring buoy not previously authorized by the Commission.

LEASE TERM:

10 years, beginning June 21, 2018.

CONSIDERATION:

\$480 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than \$1,000,000 per occurrence.
2. Lessee shall not store any personal items or construct any improvements in the Public Trust easement that may impair the public uses of access, navigation, fishing, and lake-related recreational uses.
3. If Lessee does not have a valid Tahoe Regional Planning Agency (TRPA) buoy permit, Lessee is required to obtain such authorization for the mooring buoy within 2 years after the certification of a Final Environmental Impact Statement for the Lake Tahoe Shorezone Ordinance Amendments and approval of the amended ordinances. If Lessee is unable to obtain such authorization within the time limit, they may be required to remove the buoy.

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4. Lessee expressly acknowledges and agrees that issuance of a lease does not substitute for, or provide preference in, obtaining authorizations from TRPA or any other regulatory agency for the improvements authorized by the Commission.
5. The public will be allowed to pass and re-pass over the pier or around the landward end of the pier to provide continuous shoreline access to the Public Trust easement.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, 6503 and 6503.5; California Code of Regulations, title 2, sections 2000 and 2003.

Public Trust and State's Best Interests Analysis:

Second Manassas, LLC, a California Limited Liability Company (Applicant) has applied for a General Lease – Recreational Use for the use and maintenance of an existing pier and one mooring buoy. The Applicant's pier and one mooring buoy have been in Lake Tahoe for many years but were not previously authorized by the Commission.

The Applicant owns the upland adjoining the lease premises. The subject facilities are privately owned and maintained. The pier and buoy are used for the docking and mooring of boats and facilitate recreational boating. Recreational boating is a water-dependent use that is generally consistent with the common law Public Trust Doctrine. The California Legislature has identified private recreational boating facilities as an authorized use of Public Trust lands (Pub. Resources Code, § 6503.5).

The subject facilities have existed for many years at this location. The pier is built on pilings and has been in its current location since approximately 1969 as determined by the U.S. Army Corps of Engineers in a "grandfathered" status letter dated February 1, 2018. The pier's 1969 construction predates TRPA's establishment in 1972. Accordingly, TRPA did not issue a permit for the pier. The pier has not changed since the late 1960s. The topography and location of the upland structures provide access for the pier and allow the public to walk or navigate next to the end of the pier within the Public Trust easement. The public can easily pass over the pier as it is low to the ground within the Public Trust easement. The lease includes a provision allowing the public to pass and re-pass providing access to the Public Trust easement of neighboring properties. The Applicant has agreed to allow the public to pass and re-pass over the pier or around the landward end of the pier. The public can easily pass

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over the pier as it is low to the ground within the Public Trust easement. The buoy is located directly lakeward of the upland property and occupies a relatively small area of the lake. The buoy was never permitted by TRPA.

The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The lease is limited to a 10-year term, does not grant the lessee exclusive rights to the lease premises, and reserves an easement to the public for Public Trust-consistent uses. Upon termination of the lease, the lessee may be required to remove all improvements from State land.

The proposed lease requires the lessee to insure the lease premises and indemnify the State for any liability incurred as a result of the lessee's activities thereon. The lease also requires the payment of annual rent to compensate the people of the State for the occupation of the public land involved. For all the reasons above, staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction and Strategy 1.3 to promote, expand, and enhance appropriate public use and access to and along the State's inland and coastal waterways.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300 and California Code of Regulations, title 2, section 2905.

~~Authority: Public Resources Code section 21080, subdivision (b)(5) and California Code of Regulations, title 14, section 15270, subdivision (a).~~

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EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 2, section 2905, subdivision (a)(2).

PUBLIC TRUST AND STATE'S BEST INTERESTS:

Find that the proposed lease will not substantially impair the public rights to navigation and fishing or substantially interfere with the Public Trust needs and values at this location, at this time, and for the foreseeable term of the lease; is consistent with the common law Public Trust Doctrine; and is in the best interests of the State.

AUTHORIZATION:

Authorize issuance of a General Lease – Recreational Use to the Applicant beginning June 21, 2018, for a term of 10 years, for the use and maintenance of an existing pier and one mooring buoy not previously authorized by the Commission as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; annual rent in the amount of \$480, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than \$1,000,000 per occurrence.

EXHIBIT A

W 27146

LAND DESCRIPTION

Two (2) parcels of submerged land situate in the bed of Lake Tahoe, lying adjacent to Lot 1 fractional Section 27 Township 13 North, Range 18 East, MDM., as shown on Official Government Township Plat approved July 8, 1875, County of El Dorado, State of California and more particularly described as follows:

PARCEL 1 - PIER

All those lands underlying an existing pier lying adjacent to that parcel as described in Exhibit A of that Grant Deed recorded July 21, 2017 as Document 2017-0030000-00 in Official Records of said County.

TOGETHER WITH any applicable impact area(s).

EXCEPTING THEREFROM any portion lying landward of elevation 6223 feet LTD on the shoreline of said Lake Tahoe.

PARCEL 2 - BUOY

One (1) circular parcel of land, being 50 feet in diameter underlying one (1) existing buoy lying adjacent to said parcel.

Accompanying plat is hereby made part of this description.

END OF DESCRIPTION

Prepared December 6, 2017, by the California State Lands Commission Boundary Unit.





L A K E
T A H O E



EXISTING BUOY

55'



9' IMPACT AREA

6223'± LTD

EXISTING
PIER (5' X 83')

APPROXIMATE SHORELINE

APN 029-010-12

EXHIBIT A

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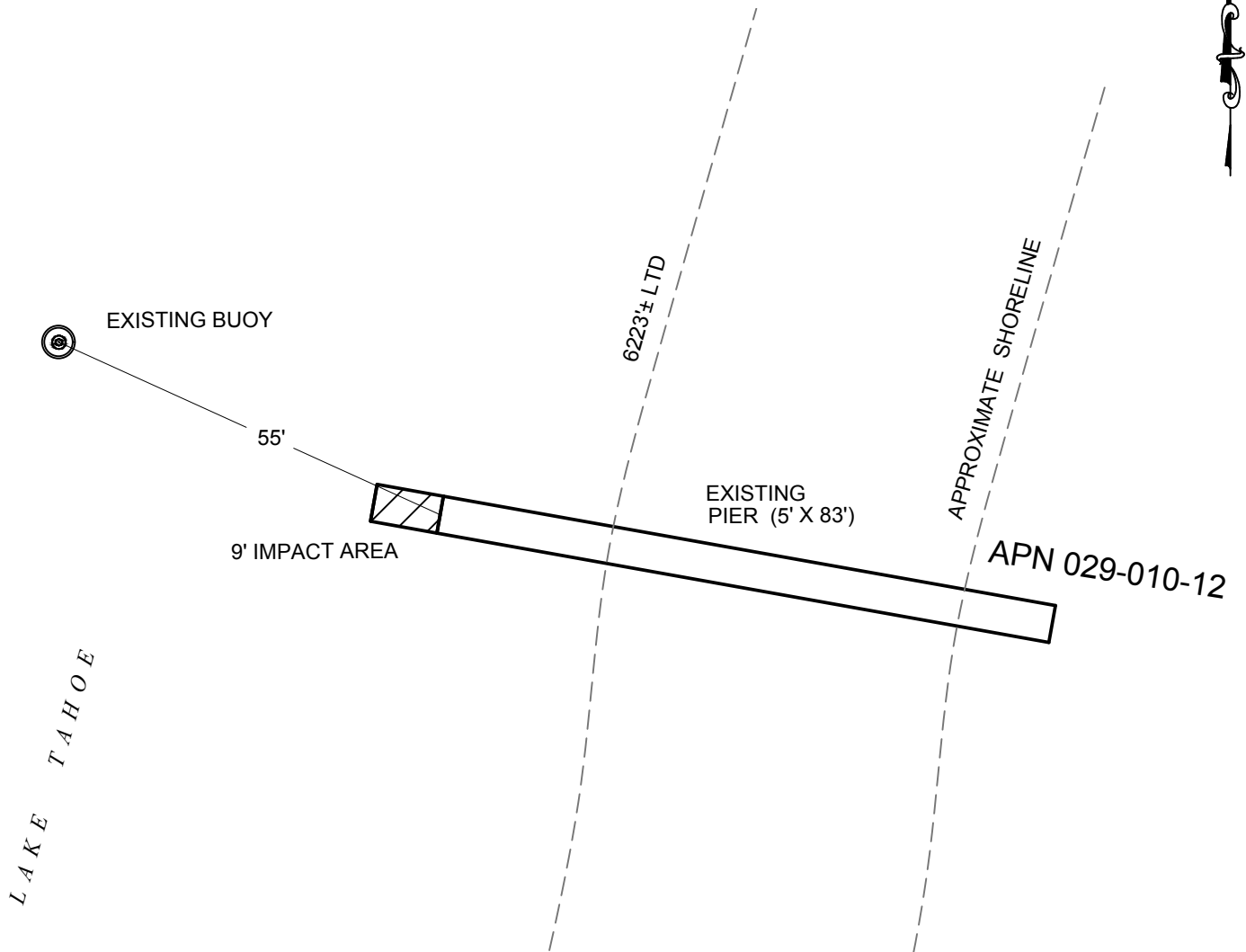
LAND DESCRIPTION PLAT
W 27146 , SECOND MANASSAS, LLC
EL DORADO COUNTY

CALIFORNIA STATE
LANDS COMMISSION



NO SCALE

SITE



837 STATELINE AVENUE, SOUTH LAKE TAHOE

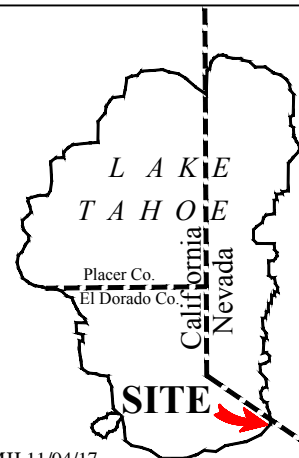
NO SCALE

LOCATION



Exhibit B

W 27146
 SECOND MANASSAS, LLC
 APN 029-010-12
 GENERAL LEASE -
 RECREATIONAL USE
 EL DORADO COUNTY



MIJ 11/04/17

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.